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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,782

01/28/2004

Steve A. Yon

135001

7291

7590  
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251 North Avenue West  
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06/12/2007

EXAMINER

GIBSON, ROY DEAN

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

06/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/767,782

Applicant(s)

YON ET AL.

Examiner

Roy D. Gibson

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21,23-41,50-53,55,56,61 and 62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-21,23-41,55,56,61 and 62 is/are allowed.
- 6) ☒ Claim(s) 50-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Formal Matters***

After further consideration, the examiner has found prior art for previously allowed claims 50-53, therefore, see the rejections presented below for this non-final Office action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsburg et al. (6,620,188). Ginsburg et al. disclose a heat transfer catheter comprising:

a catheter (Figure 16, # 324) having a proximal end capable of being coupled to an input of a source of working fluid and a distal end coupled to a heat transfer element (325);

a supply lumen and a return lumen (332 and 333) disposed within the catheter, the proximal end of the supply lumen capable of being coupled to an output of a source of working fluid and a distal end terminating at or within the heat transfer element;

a guidewire lumen (328) disposed within the catheter, the guidewire lumen coupled (thermally) to the supply lumen, the supply lumen terminating proximal of the guidewire lumen;

and a temperature sensor (350) disposed on or within the heat transfer element, and wherein the temperature sensor is mounted on the guidewire lumen distal of the termination of the supply lumen; and wherein the distal tip of the guidewire lumen is coupled to the distal tip of the heat transfer element (col. 21, line 43-col. 22, line 47).

But, Ginsburg et al. fail to disclose the supply and return lumens are coaxial. However, the examiner maintains that coaxial supply and return lumens are well known in the art and, therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of Ginsburg et al., to include coaxial supply and return lumens to minimize the diameter of the catheter.

Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsburg et al. in view of Nelson (5,174,299). Ginsburg et al. fails to disclose the temperature is encapsulated in a polymer tube. However, Nelson discloses cardiac blood flow sensor wherein the thermocouple is enclosed in a silicon(e) tube (col. 6, lines 39-53).

Regarding claim 53, the examiner maintains that it would have been obvious to a skillful artisan, as an alternative, to encapsulate the thermocouple in a metal tube provide the sensor is electrically isolated from the tube. The objective being to increase the thermal conductivity of the sensor.

***Allowable Subject Matter***

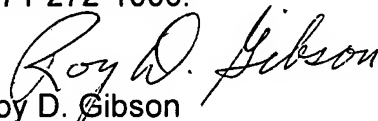
Claims 1-21, 23-41, 55, 56 and 61-62 are allowed.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Roy D. Gibson  
Primary Examiner  
Art Unit 3739

June 7, 2007